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12-07-05

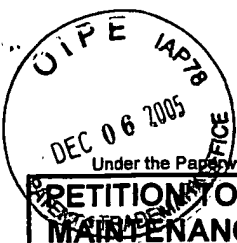
#32

PTO/SB/65 (01-05)

Approved for use through 5/31/2006. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.



PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))

Docket Number (Optional)
3002.00005

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (703) 872-9306

RECEIVED
DEC 09 2005
OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

Patent No. 5,700,654 Application Number 08/304,147
Issue Date 12/23/97 Filing Date 09/12/94

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above-identified patent:

- ☐ is a reissue of original Patent No. _____ original issue date _____ ;
original application number _____
original filing date _____
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____

04/11/2006 CKHLOK 00000023 111449 5700654
01 FC:2551

450.00 DA

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is
(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR
(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

12-6-05
Date

Connie Herty
Signature

Connie Herty
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

12/08/2005 TBESHAH1 00000001 5700654

01 FC:1595 1855.00 0P--

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1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input checked="" type="checkbox"/> \$ _____	3 1/2 yr fee	(1551)	<input checked="" type="checkbox"/> \$ <u>455.00</u>	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input checked="" type="checkbox"/> \$ <u>1150.00</u>	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 1605.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 250.00 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.SURCHARGE FEE BEING SUBMITTED \$ 250.00

5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of \$ 1855.00☐ Please charge Deposit Account No. _____ the sum of \$ _____. A duplicate copy of this authorization is attached.☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 11-1449. A duplicate copy of this authorization is attached.

7. OVERPAYMENT

As to any overpayment made please

☒ Credit to Deposit Account No. 11-1449

OR


☐ Send refund check.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

12-6-05

Date

Kenneth I. Kohn

Typed or printed name(s)

30,955

Registration Number, if applicable

30500 Northwestern Highway, Suite 410

Address

(248) 539-5050

Telephone Number

Farmington Hills, MI 48334

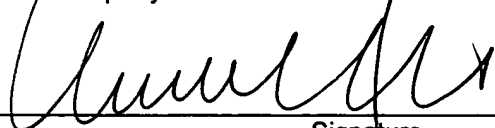
Address

ENCLOSURES:

- ☒ Maintenance Fee payment
- ☒ Statement why maintenance fee was not paid timely
- ☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
- ☐ Other:

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

12-6-05

Date

Kenneth I. Kohn

Typed or printed name

30,955

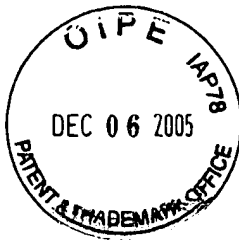
Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

See attached

(Please attach additional sheets if additional space is needed)



Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

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The information provided by you in this form will be subject to the following routine uses:

OFFICE OF PETITIONS

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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Statement of Unavoidable Delay

OFFICE OF PETITIONS



The 3½ year Maintenance Fee for US Patent No. 5,700,654 was due June 30, 2001.

Petitioner law firm sent notice on February 1, 2001 to Dennis Callewaert of Oxford Biomedical Research, Inc. (licensee of the '654 Patent) that the 3½ year Maintenance Fee was coming due (Exhibit "A"). On February 7, 2001, Mr. Callewaert informed Petitioner that a new licensee, Lipoprotein Diagnostics (Lipoprotein) and specifically Eric Kuhrts thereof, would be handling all maintenance of the '654 patent (Exhibit "B"). Vanderbilt University (Vanderbilt), owner of the '654 Patent, requested that its licensees handle all patent maintenance and patent issues, and therefore, Petitioner never sent notice of the upcoming Maintenance Fee to Vanderbilt. All communications from the U.S.P.T.O. come to Petitioner, not Vanderbilt, nor any licensees of Vanderbilt patents. Please refer to the statement of Janis Elsner, employee of Vanderbilt (Exhibit "S1").

Petitioner sent notices by fax to Mr. Kuhrts regarding the upcoming Maintenance Fee on February 9 (Exhibit "C") and February 13 (Exhibit "D"), 2001. Petitioner received no response from Mr. Kuhrts and therefore took no action to pay the Maintenance Fee. On August 13, 2001, Petitioner faxed a notice to Mr. Kuhrts that the Maintenance Fee was overdue and advised of the upcoming abandonment date of December 24, 2001 (Exhibit "E"). Mr. Kuhrts never received any faxes from Petitioner. During February 2001, Lipoprotein was in the process of moving its company to a new location. Petitioner was not made aware of a new address for Lipoprotein or a new fax number. Any mail sent from Petitioner did not go to Lipoprotein at its new address because the Post Office did not forward any mail. Please refer to the statement of Mr. Kuhrts (Exhibit "S2").

Because of nonpayment of the Maintenance Fee, the '654 Patent abandoned on December 24, 2001. Petitioner received a notice from the USPTO on February 11, 2002 that the '654 Patent had expired (Exhibit "F"). Petitioner, through employee Sheryl Fox, emailed Mr. Kuhrts on October 18, 2002 of the abandonment and the possibility of revival (Exhibit "G"). After no response, Petitioner's employee Sheryl Fox again emails Eric Kuhrts on January 3, 2003, requesting advice as to any action to be taken on the '654 Patent (Exhibit "H"). On January 13, 2003, Petitioner, through employee Sheryl Fox, emailed Mr. Kuhrts with a summary of all attempted communication with regard to the '654 Patent and a reminder of the last date to revive (Exhibit "I"). It appears that Mr. Kuhrts never received any of these emails. Because Petitioner was not on Mr. Kuhrts' "contact list," any and all email sent from Petitioner was not recognized and deleted by a spam guard program.

Sometime in 2004, through his own due diligence on the file history on Lipoprotein patents, Mr. Kuhrts discovered that the '654 Patent had become abandoned and timely tried to revive through a Petition based on Unintentional Delay along with the appropriate Maintenance Fee and surcharges of \$2,085.00 (Exhibit "J"). Vanderbilt learnt of the abandonment of the patent through an email by Petitioner when confirming the status of Vanderbilt's patents (Exhibit "K"). On January 19, 2005, the USPTO mailed Mr. Kuhrts a notice that the decision on the September 13, 2004 Petition would be delayed two months because Mr. Kuhrts was not authorized to sign the Petition (Exhibit "L").

On February 11, 2005, Mr. Kuhrts informed Petitioner that he would attempt to revive the '654 Patent (Exhibit "M"). Vanderbilt signed a Statement under 37 CFR 3.73(b) that Mr. Kuhrts as a representative of Lipoprotein is authorized to act on behalf of Vanderbilt on February 15, 2005 (Exhibit "N"). This Statement was sent to the USPTO to restart the decision on the Petition.

On March 30, 2005, the USPTO sent notice to Mr. Kuhrts that the Petition was dismissed because the grace period for filing a Petition based on Unintentional Delay expired December 24, 2001 (Exhibit "O"). The money paid along with the Petition was not refunded. Mr. Kuhrts was unaware that this Petition could not be filed as he did not have the advice of Petitioner regarding how to go about reviving the '654 Patent.

Mr. Kuhrts informed Petitioner of his unsuccessful attempt at reviving the '654 patent and requested Petitioner's advice through his letter of May 25, 2005 along with copies of the communications with the USPTO (Exhibit "P"). After analyzing the problem, Petitioner wrote Mr. Kuhrts a letter on June 16, 2005, notifying him that the '654 Patent could be revived through a Petition based on Unavoidable Delay and requested information from Mr. Kuhrts if he wished to take this course of action (Exhibit "Q"). On June 24, 2005, Petitioner conducted a teleconference with Mr. Kuhrts and Janis Elsner of Vanderbilt to discuss how to file a Petition based on Unavoidable Delay. A decision was made to gather the information, dates, and documents needed to file the Petition. After confirming that Mr. Kuhrts had provided Petitioner with all relevant facts, Vanderbilt, through employee Janis Elsner, emailed Petitioner on September 22, 2005, requesting that Petitioner prepare the required Petition in order to revive the '654 patent (Exhibit "R"). Mr. Kuhrts sent Petitioner a retainer for the Petition on December 5, 2005. After receiving permission from all parties involved and the required fees, Petitioner timely filed this Petition based on Unavoidable Delay to accept the late Maintenance Fee.

Summary of Timeline

2/1/2001	Petitioner sends notice of Maintenance Fee due to Oxford
2/7/2001	Oxford informs Petitioner that licensee Lipoprotein (through Mr. Kuhrts) is in charge of maintenance

*2/9/2001 Petitioner notifies Mr. Kuhrts of upcoming Maintenance Fee and grace period

*2/13/2001 Petitioner notifies Mr. Kuhrts again of the Maintenance Fee

2/2001 Lipoprotein in process of moving company

6/23/2001 3½ year Maintenance Fee due

*8/13/2001 Petitioner notifies Mr. Kuhrts of overdue Maintenance Fee and abandonment date

12/24/2001 End of grace period to pay Maintenance Fee; '654 Patent abandoned

2/11/2002 Petitioner receives USPTO notice of abandonment for '654 Patent

*10/18/2002 Petitioner notifies Mr. Kuhrts of abandonment and possibility to revive

*1/3/2003 Petitioner emails Mr. Kuhrts requesting advice to action on '654 Patent

*1/13/2003 Petitioner emails Mr. Kuhrts with communication history and last date to revive '654 patent

12/24/2003 Period to file Petition based on Unintentional Delay expires

2004 Mr. Kuhrts discovers abandonment of '654 Patent through his own due diligence

9/13/2004 Mr. Kuhrts files Petition to revive based on Unintentional Delay with USPTO

12/14/2004 Petitioner informs Vanderbilt of status of abandoned '654 Patent

1/19/2005 USPTO gives notice of delay on decision of 9/12/2004 Petition to Mr. Kuhrts

2/11/2005 Mr. Kuhrts informs Petitioner of his intent to revive '654 Patent

2/15/2005 Vanderbilt signs Statement of authorization for Lipoprotein

3/30/2005 USPTO sends notice of dismissal of 9/13/2004 Petition to Mr. Kuhrts

5/25/2005 Mr. Kuhrts notifies Petitioner of unsuccessful attempt at revival of '654 Patent and seeks advice

6/16/2005 Petitioner notifies Mr. Kuhrts of possibility to revive '654 Patent through a Petition based on Unavoidable Delay

6/24/2005 Teleconference between Petitioner, Lipoprotein, and Vanderbilt to discuss issue of reviving '654 Patent

6/24/2005 – 9/22/2005 Mr. Kuhrts confirming that all relevant information regarding '654 Patent is given to Petitioner

9/22/2005 Vanderbilt notifies Petitioner to prepare Petition based on Unavoidable Delay

12/5/2005 Mr. Kuhrts sends Petitioner retainer to prepare Petition

*notices never received by Lipoprotein / Mr. Kuhrts

The delay in payment of the 3½ year Maintenance Fee was unavoidable as explained by the above sequence of events. Therefore, this Petition to Accept an Unavoidably Delayed Payment of the Maintenance Fee in an Expired Patent was filed as soon as possible, immediately after Petitioner learned of the expiration of Patent '654. Reinstatement of Patent '654 is respectfully requested and acceptance of the 3½ year Maintenance Fee is respectfully requested, together with any applicable late surcharges and petition fees.

KOHN & ASSOCIATES

Intellectual Property Law

Exhibit "A"

KENNETH I. KOHN, Ph.D.
AMY E. RINALDO[†]
ANDREW M. PARIAL

[†]also admitted in Ohio

February 1, 2001

VIA FAX ONLY: 248-852-4466

Dennis M. Callewaert, Ph.D.
Oxford Biomedical Research, Inc.
P.O. Box 522
Oxford, MI 48371

Eric Roberts
@ Lip

Re: 2Q01 Annuities/Maintenance Fees - **SOLE NOTICE**

Dear Dennis:

Please be advised that the following matters have maintenance/annuity fees due for decision on or before **February 12, 2001**:

Our File No. SN or PN	Country	Title - Inventor	Amount Due	Yes or No
1201.00010 Vanderbilt: VU9101B-CIP PN 5,700,654	U.S.	Method and Composition to Assess Oxidative Stress <i>in</i> <i>vivo</i> - Roberts, et al	\$705 \$755	

If you desire each matter to continue, it will be necessary to receive your written instructions advising us to **PAY** the respective maintenance/annuity fee no later than **February 12, 2001**. Please be further advised that an additional \$50 USD will be assessed by our annuity service to *each decision* made on or after **February 15, 2001**.

In several countries, if a maintenance/annuity fee is not paid by the due date, the case can enter a penalty phase, most commonly for a six-month period. During this six-month penalty phase, the decision to pay the maintenance/annuity fee can be made subject to payment of a financial penalty. Penalties vary by country and can range from 10% to 1000% of the maintenance/annuity payment. For information on whether any of the above matters can enter the penalty stage and an estimate of that penalty, please feel free to call me.

If by the expiration of the due date or penalty phase, whichever is applicable, your written instructions to pay have not been received by our office, the above matter will abandon.

Finally, if this reminder is for a non-U.S. matter, please note that these costs are based on present currency values and are subject to official fee changes and currency

30500 Northwestern Highway • Suite 410 • Farmington Hills, Michigan 48334-3179 USA

Phone: (248) 539-5050 • Fax: (248) 539-5055 • E-mail: kohn@myintranet.com

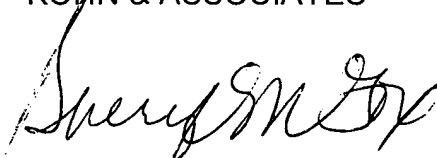
Please visit our website: <http://www.kohnandassociates.com>

fluctuations.

If there are any questions, please call me at **248/539-5066** or e-mail me at **sheryl_fox@myintranet.com**.

Very truly yours,

KOHN & ASSOCIATES

A handwritten signature in black ink, appearing to read "Sheryl M. Fox". The signature is fluid and cursive, with the first name "Sheryl" being more prominent than the last name "Fox".

Sheryl M. Fox
Office Administrator

/smf

Exhibit "B"

To Sheryl ☐ **URGENT**
Date 2-7-01 Time 3:30 A.M.
P.M.
WHILE YOU WERE OUT
From Denise Callewalt
of _____
Phone 1-218 852 8815
Area Code Number Ext.
Fax _____
Area Code Number

Telephoned	<input type="checkbox"/>
Came to see you	<input type="checkbox"/>
Returned your call	<input type="checkbox"/>

Please Call	<input type="checkbox"/>
Wants to see you	<input type="checkbox"/>
Will call again	<input type="checkbox"/>

Message 1201-00010
Lipo is responsible

Signed RK

Quill Corporation

1-800-789-1331

#7-92001 Reorder No.

February 9, 2001

TELEFAX

954-697-0396

KENNETH I. KOHN, Ph.D.
AMY E. RINALDO[†]
ANDREW M. PARIAL
[†]also admitted in Ohio

TO: Eric Kuhrts
Lipoprotein Diagnostics, Inc.

FROM: Sheryl Fox
Kohn & Associates

PAGE(S): 3 (including this sheet)

RE: USPN 5,700,654
Our File No. 1201.00010 (Oxford Biomedical)

MESSAGE: Dear Eric:

I have been advised by Dennis Callewaert that the attached renewal fee is for your decision. Please let me have your instructions as soon as possible. If payment is to be made, please call me immediately to discuss resolution of your account balance relative to the Vanderbilt University/Jackson Roberts matters before we will incur additional costs.

Thanks for your attention.

**Regards,
Sheryl Fox**

PLEASE CONTACT SHERYL FOX IF THERE ARE ANY PROBLEMS IN TRANSMISSION

The information contained in this facsimile and attached pages are confidential and/or privileged and intended only for the use of the individual or entity named above. If you have received this communication in error, please contact us immediately and return the original message to us. Any use, dissemination, distribution or copying of this communication is prohibited.

KOHN & ASSOCIATES

Intellectual Property Law

February 13, 2001

VIA FAX ONLY: 954-697-0396

KENNETH I. KOHN, Ph.D.
AMY E. RINALDO[†]
ANDREW M. PARIAL

[†]also admitted in Ohio

Mr. Eric Kuhrts
Lipoprotein Diagnostics, Inc.
1109 Tannery Creek Road
P.O. Box 387
Bodega, CA 94922

Re: 2Q01 Annuities/Maintenance Fees - **SOLE NOTICE**

Dear Eric:

Please be advised that the following matters have maintenance/annuity fees due for decision on or before **March 1, 2001**:

Our File No. SN or PN	Country	Title - Inventor	Amount Due	Yes or No
3002.00005 Vanderbilt: VU9101B-CIP PN 5,700,654	U.S.	Method and Composition to Assess Oxidative Stress <i>in</i> <i>vivo</i> - Roberts, et al	\$755	

If you desire each matter to continue, it will be necessary to receive your written instructions advising us to PAY the respective maintenance/annuity fee as soon as possible.

In several countries, if a maintenance/annuity fee is not paid by the due date, the case can enter a penalty phase, most commonly for a six-month period. During this six-month penalty phase, the decision to pay the maintenance/annuity fee can be made subject to payment of a financial penalty. Penalties vary by country and can range from 10% to 1000% of the maintenance/annuity payment. For information on whether any of the above matters can enter the penalty stage and an estimate of that penalty, please feel free to call me.

If by the expiration of the due date or penalty phase, whichever is applicable, your written instructions to pay have not been received by our office, the above matter will abandon.

Finally, if this reminder is for a non-U.S. matter, please note that these costs are based on present currency values and are subject to official fee changes and currency

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Please visit our website: www.kohnandassociates.com

fluctuations.

If there are any questions, please call me at **248/539-5066** or e-mail me at **sheryl_fox@myintranet.com**.

Very truly yours,

KOHN & ASSOCIATES

A handwritten signature in black ink, reading "Sheryl M. Fox". The signature is written in a cursive, flowing style.

Sheryl M. Fox
Office Administrator

/smf

VU9101B

KOHN & ASSOCIATES

Intellectual Property Law

August 13, 2001

VIA FAX ONLY: 954-697-0396

KENNETH L. KOHN, Ph.D.
AMY E. RINALDO
ANDREW M. PARIAL
who admitted to Ohio

Of Counsel
WILLIAM H. HORTON
LINDA M. WATSON

The information contained in this facsimile and attached pages, if any, is confidential and/or privileged and intended only for the use of the individual or entity named below. If you have received this communication in error, please contact us immediately and return the original message to us. Any use, dissemination, distribution or copying of this communication is prohibited.

Mr. Eric Kuhrts
Lipoprotein Diagnostics, Inc.
1109 Tannery Creek Road
P.O. Box 387
Bodega, CA 94922

FINAL
Reminder 11-13-01

Re: USPN 5,700,654 - Issued 12-23-97
METHOD AND COMPOSITION TO ASSESS OXIDATIVE
STRESS *IN VIVO* - Roberts et al
Our File No.: 3002.00005

No instructions
12-10-01

Dear Eric:

We have received a reminder from the US Patent Office that the 3½-year maintenance fee remains unpaid from its due date of June 23, 2001. If you desire this matter to continue, it will be necessary to receive your written instructions advising us to PAY the maintenance fee together with your payment in the amount of \$800 (maintenance fee + surcharge + legal services). Absent your instructions and accompanying payment, we will NOT process the maintenance fee and this matter will become abandoned December 24, 2001.

Please acknowledge your safe receipt of this fax and let me know whether you will request this matter paid or be allowed to abandon.

Very truly yours,

KOHN & ASSOCIATES

Sheryl M. Fox

Sheryl M. Fox
Office Administrator

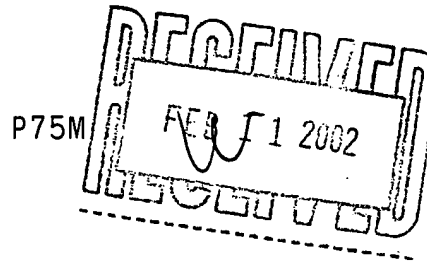
/smf

30500 Northwestern Highway • Suite 410 • Farmington Hills, Michigan 48334-3179 USA
Phone: (248) 539-5050 • Fax (248) 539-5055 • E-mail: kohn@myintranet.com
Please visit our website: www.kohnandassociates.com



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231



DATE PRINTED

01/30/02

KENNETH I. KOHN
KOHN & ASSOCIATES
30500 NORTHWESTERN HWY.,
SUITE 410
FARMINGTON HILLS, MI 48334

NOTICE OF PATENT EXPIRATION

According to the records of the Patent and Trademark Office, payment of the maintenance fee for the patents listed below has not been timely received prior to the end of the six-month grace period in accordance with 37 CFR 1.362(e). THE PATENT(S) LISTED BELOW HAS THEREFORE EXPIRED AS OF THE END OF THE GRACE PERIOD. 35 U.S.C. 41(b).

Expired patents may be reinstated in accordance with 37 CFR 1.378 if upon petition, the maintenance fee and the surcharge set forth in 37 CFR 1.20(m) are paid, AND THE DELAY IN PAYMENT OF THE MAINTENANCE FEE IS SHOWN TO THE SATISFACTION OF THE COMMISSIONER TO HAVE BEEN UNAVOIDABLE. 35 U.S.C. 41(c)(1).

IF THE COMMISSIONER ACCEPTS PAYMENT OF THE MAINTENANCE FEE UPON PETITION, THE PATENT SHALL BE CONSIDERED AS NOT HAVING EXPIRED, BUT WOULD BE SUBJECT TO THE INTERVENING RIGHTS AND CONDITIONS SET FORTH IN 35 U.S.C. 41(c)(2).

NOTICE OF THE EXPIRATION WILL BE PUBLISHED IN THE OFFICIAL GAZETTE.

PATENT NUMBER	U.S. SERIAL NUMBER	PATENT DATE	APPLICATION FILING DATE	EXPIRATION DATE	ATTORNEY DOCKET NUMBER
5700654	08304147	12/23/97	09/12/94	12/23/01	



Message

From: Sheryl Fox
Subject: Lipoprotein patent updates
To: hk@earthlink.net
Cc:

Hi Eric:

Thank you for your telephone call the other day. I have pulled the subject US Patents with maintenance fees coming due/overdue.

USPN 5,858,696 - Our File 3002.00002

METHOD AND COMPOSITIONS TO ASSESS OXIDATIVE STRESS IN VIVO - Roberts et al
3.5 year due July 12, 2002 - Final date for payment to avoid abandonment: January 12, 2003
Amount due: \$440 (US govt fee) + \$65 (late surcharge) + \$350 (legal fees) = \$855

USPN 5,891,622 - Our File 3002.00003

ASSESSMENT OF OXIDATIVE STRESS IN VIVO - Morrow et al
3.5 year due October 6, 2002 - Final date for payment to avoid abandonment: April 6, 2003
Amount due: \$440 (US govt fee) + \$65 (late surcharge) + \$350 (legal fees) = \$855

USPN 5,945,295 - Our File 3002.00001

METHOD AND COMPOSITIONS TO DETECT AUTOOXIDATION - Roberts et al
3.5 year due February 28, 2003 - Final date for payment to avoid abandonment: August 31, 2003
Amount due: \$440 (US govt fee) + \$250 (legal fees) = \$690

USPN 5,700,654 - Our File 3002.00005

METHOD AND COMPOSITION TO ASSESS OXIDATIVE STRESS IN VIVO - Roberts et al
3.5 year due June 23, 2001 - ABANDONED December 23, 2001 for failure to pay

As you send in your payments, please be sure to specify which case is to be paid. Also, if you wish for us to investigate the possibility of reviving '654 Patent, please contact me IMMEDIATELY. It MAY be possible to revive that patent until December 23, 2002; and if so, the US govt fees would approximate \$2,500; and our legal services would approximate \$1,500. A retainer in the amount of \$4,000 would be absolutely necessary before we would proceed with any revival, and before accepting the retainer, I would have to verify whether or not a petition would even be able to be filed on this case.

I look forward to hearing from you soon,

Exhibit "H"

Printed by: Sheryl Fox
Title: Fwd: Re: Lipoprotein patent updates

Friday, January 3, 2003 5:31:08 pm
Page 1 of 1



Unsent Message

From: Sheryl Fox
Subject: Fwd: Re: Lipoprotein patent updates
To:
Cc:

Hi Eric:
Happy New Year!
Following up with regard to the below matters. Urgent deadlines approaching. Please advise.
Sheryl

Sheryl Fox writes:

USPN 5,858,696 - Our File 3002:00002
METHOD AND COMPOSITIONS TO ASSESS OXIDATIVE STRESS IN VIVO - Roberts et al
3.5 year due July 12, 2002 - Final date for payment to avoid abandonment: January 12, 2003
Amount due: \$440 (US govt fee) + \$65 (late surcharge) + \$350 (legal fees) = \$855

USPN 5,891,622 - Our File 3002:00003
ASSESSMENT OF OXIDATIVE STRESS IN VIVO - Morrow et al
3.5 year due October 6, 2002 - Final date for payment to avoid abandonment: April 6, 2003
Amount due: \$440 (US govt fee) + \$65 (late surcharge) + \$350 (legal fees) = \$855

USPN 5,945,295 - Our File 3002:00001
METHOD AND COMPOSITIONS TO DETECT AUTOOXIDATION - Roberts et al
3.5 year due February 28, 2003 - Final date for payment to avoid abandonment: August 31, 2003
Amount due: \$440 (US govt fee) + \$250 (legal fees) = \$690

USPN 5,700,654 - Our File 3002:00005
METHOD AND COMPOSITION TO ASSESS OXIDATIVE STRESS IN VIVO - Roberts et al
3.5 year due June 23, 2001 - ABANDONED December 23, 2001 for failure to pay

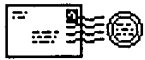
As you send in your payments, please be sure to specify which case is to be paid. Also, if you wish for us to investigate the possibility of reviving 654 Patent, please contact me IMMEDIATELY. It MAY be possible to revive that patent until December 23, 2002, and if so, the US govt fees would approximate \$2,500, and our legal services would approximate \$1,500. A retainer in the amount of \$4,000 would be absolutely necessary before we would proceed with any revival, and before accepting the retainer, I would have to verify whether or not a petition would even be able to be filed on this case.

Sheryl

Exhibit "I"



Printed by: Sheryl Fox
Title: Maintenance fees / case status

Monday, January 13, 2003 12:22:20 pm
Page 1 of 2



Monday, January 13, 2003 12:06:26 pm

Message

From:  Sheryl Fox
Subject: Maintenance fees / case status
To:  hk@earthlink.net

Hi Eric:

USPN 5,858,696 - your payment has been received and the 3.5 year maintenance fee was paid with the late surcharge Friday, **January (corrected) 10, 2003**. The next maintenance fee due is July 12, 2006 and the last will become due July 12, 2010. Timely reminders will be provided to you as those dates approach.

USPN 5,945,295 - due for 3.5 year maintenance fee by February 28, 2003. Instructions and payment (\$690) not yet received.

USPN 5,891,622 - overdue 3.5 year maintenance fee. Payment with late surcharge due April 6, 2003. Instructions and payment (\$855) not yet received.

USPN 5,700,654 - PATENT EXPIRED 12-23-01 for nonpayment of 3.5 year maintenance fee. The following is a history of notifications/responses:

2-1-01	Fax to Dennis Callewaert (248-852-4466) that MF is due.
2-7-01	Telephone call from Dennis Callewaert (248-852-8815) that Lipoprotein is responsible.
2-9-01	Fax to Eric Kuhrts (954-697-0396) that MF is due and Lipo responsible per Callewaert.
2-13-01	Fax to Eric Kuhrts (954-697-0396) that MF is due.
8-13-01	Fax to Eric Kuhrts (954-697-0396) that MF is overdue; abandonment date is 12-24-01.
11-13-01	Fax to Eric Kuhrts (954-697-0396) that MF is overdue; abandonment date is 12-24-01.
10-18-02	Email to Eric Kuhrts (hk@earthlink.net) that case abandoned 12-23-01 and revival may be possible to 12-23-02.

Please do not hesitate to call me with any further questions.

Best regards,
Sheryl

Sheryl M. Fox
Office Administrator
KOHN & ASSOCIATES, PLLC
30500 Northwestern Highway, Suite 410

Exhibit "J"

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))**

Docket Number **22097.CIP**

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282

Patent No. 5,700,654 Application Number 304,147
Issue Date 12/23/97 Filing Date 9/12/94

CAUTION Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above-identified patent:

- ☐ is a reissue of original Patent No. _____, original issue date ____;
original application number _____,
original filing date _____.
- ☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ -filed on _____.

CERIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

9/7/04
Date

Eric H. Kuhrt
Signature

Printed Name ERIC H. KUHRTS

1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$890.00	3 1/2 yr fee	(1551)	<input checked="" type="checkbox"/> \$445.00	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$2,050.00	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$1,025.00	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$3,150.00	11 1/2 fee	(1553)	<input type="checkbox"/> \$1,575.00	11 1/2 fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 445.00

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$1,640.00 (fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED \$1,640.00

5. MANNER OF PAYMENT

☒ Enclosed is a check for the sum of \$2,085.00.

☐ Please charge Deposit Account No. _____ in the sum of \$ _____. A duplicate copy of this authorization is attached.

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Commissioner is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____. A duplicate copy of this authorization is attached.

7. OVERPAYMENT

As to any overpayment made please

OR

☐ Credit to Deposit Account No. _____

☒ Send refund check.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

September 7, 2004
Date

707-876-9222
Telephone Number

Eric H. Kuhrts
Signature(s) of Petitioner(s)

Eric H. Kuhrts
President and CEO
LIPOPROTEIN TECHNOLOGIES, INC.
1109 Tannery Creek Rd.
Bodega, CA 94922

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)
☒ Postcard

Enclosed please find "Petition to
Accept Unintentionally Delayed Payment
of Maintenance Fee in an Expired
Patent" for U.S. Patent # 5,700,654.
Certificate of mailing and check #
1615 for \$ 2,085.00 enclosed.



Exhibit "K"

Printed by: Sheryl Fox
Title: Vanderbilt portfolio status

Tuesday, December 14, 2004 1:20:05 PM
Page 1 of 2



Message

From: ❖ Sheryl Fox
Subject: Vanderbilt portfolio status
To: ❖ brad.baird@vanderbilt.edu

Cc:

Hi Brad,

Here's a status of the files as you've requested:

0571-5 - VU8641
USPN 5154913
Abandoned 10-13-04

0571-9 - VU8641CIP
USPN 5480631
Abandoned 2-4-04

0571-11 - VU8641EP
EPPN 0317873
Abandoned 6-30-01

0571-13 - VU8641CA
CAPN 1331007
Abandoned 7-26-01

0571-14 - VU8641JP
JPPN 2551643
Abandoned 8-22-02

0571-19 - VU9101B-CIP
USPN 5700654
Abandoned 12-23-01

3002-2 - VU not provided
USPN 5858696

In good standing - 8th year US maint fee due 7-12-2006



Exhibit "L"

Paper No. 19

**ERIC H. KUHRTS
LIPOPROTEIN TECHNOLOGIES, INC.
1109 TANNERY CREEK RD.
BODEGA, CA 94922**

COPY MAILED

JAN 19 2005

In re Patent No. 5,700,654	:	OFFICE OF PETITIONS
Issue Date: December 23, 1997	:	
Application No. 08/304,147	:	ON PETITION
Filed: September 12, 1994	:	
Attorney Docket No. 9101BCIP	:	

REQUIREMENT FOR INFORMATION

A petition was filed on September 13, 2004, under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address the following issue before a decision is rendered. No extension of this two month time limit can be granted under 37 CFR 1.136(a) or (b).

The instant petition is not signed by a person authorized to sign a petition under 37 CFR 1.378 in the above-identified patent. 37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

The petition to accept an unintentionally delayed payment of the maintenance fee is signed by Eric H. Kuhrts. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 1.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office, (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents

submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a manner pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information." At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

In order to expedite reinstatement of this patent, petitioner may wish to consider submitting the reply to the requirement for information by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

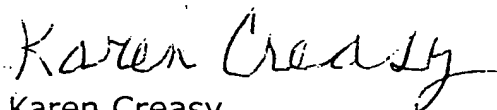
By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Window located at:

 2011 South Clark Place
 Crystal Plaza Two Lobby
 Room 1B03
 Arlington, VA 22202

By fax: (703) 872-9306
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to Karen Creasy at (571) 272-3208.


Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Blank copy of 37 CFR 3.73(b) form.

1109 Tannery Creek Rd.
PO Box 16
Bodega, CA 94922
Fax: 954-697-0396
Phone: 707-876-9222
email: lipotech2004@yahoo.com

**LIPOPROTEIN
DIAGNOSTICS, INC.**

Fax

To: Sheryl Fox

From: Eric Kuhrts

Fax: 248-539-5055

Date: February 10, 2005

Phone:

Pages: 8

Re:

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

•Comments:

Re: US Patent No. 5,700,654 maintenance fees.

2-11-05
4:45pm

Eric will try to
pursue himself + if
no luck, he'll cb for
us to pursue.

15 05 02:34p

PTO/SB/98 (08-04)

Approved for use through 07/31/2005, OMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: L. JACKSON ROBERTS M.D. et al.
 Application No./Patent No.: 5,700,654 Filed/Issue Date: 12/23/97
 Entitled: "Method and Compositions to Assess Oxidative Stress In-Vivo"
Vanderbilt University a University
 (Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
 2. ☐ an assignee of less than the entire right, title and interest.
 The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 7154, Frame 0619, or for which a copy thereof is attached. OCT. 3, 1994
 OR
 B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
 2. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
 3. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

JANIS ELSNER
 Signature

JANIS ELSNER
 Printed or Typed Name

Associate Director
 Office of Technology Transfer
 and Enterprise Development

Title

2/15/05
 Date

(615) 343-2430
 Telephone Number

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-8199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: L. JACKSON ROBERTS MD. et al.
 Application No./Patent No.: 5,700,654 Filed/Issue Date: 12/23/97
 Entitled: "Method and Compositions to Assess Oxidative Stress In-vivo"
Vanderbilt University a University
 (Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
 2. ☐ an assignee of less than the entire right, title and interest.
 The extent (by percentage) of its ownership interest is _____ %

in the patent application/patent identified above by virtue of either:

A ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 7154, Frame 0619, or for which a copy thereof is attached. OCT. 3, 1994

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
2. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
3. From: _____ To: _____
 The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Eric H. Kuhrt 2/15/05
 Signature Date
ERIC H. KUHRTS as LPO licensee as per 707 876 9222
 Printed or Typed Name attached license agreement Telephone Number
President CEC
 Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No. 21

ERIC H. KUHRTS
LIPOPROTEIN TECHNOLOGIES, INC.
1109 TANNERY CREEK RD.
BODEGA, CA 94922

COPY MAILED

MAR 30 2005

OFFICE OF PETITIONS

In re Patent No. 5,700,654
Issue Date: December 23, 1997
Application No. 08/304,147
Filed: September 12, 1994
Patentee(s) L. Jackson Roberts et al

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed September 13, 2004, and supplemented on February 16, 2005, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified patent issued on December 23, 1997. Therefore, the grace period in 35 U.S.C. § 41(b) for paying the first year maintenance fee expired on December 24, 2001.

A petition under 37 CFR 1.378(c) must be filed within twenty-four months after the six month grace period specified in 35 USC 41(b). The six month grace period for the instant patent expired on December 24, 2001. Accordingly, an unintentional petition to reinstate the instant patent must have been submitted no later than December 23, 2001. Since the petition was not timely filed, the instant patent will not be reinstated under the unintentional provisions of 37 CFR 1.378(c).

35 U.S.C. § 41(c)(1) authorizes the Commissioner to accept a delayed maintenance fee payment within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) if the delay is shown to have been unintentional, and authorizes the Commissioner to accept a delayed maintenance fee payment at any time if the delay is shown to have been unavoidable. Thus, 35 U.S.C. § 41(c)(1) does not authorize the Commissioner to accept a delayed maintenance fee payment later than twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b) unless the delay is shown to have been unavoidable. Since the instant petition was not filed within twenty-four (24) months after the expiration of the six-month grace period specified in 35 U.S.C. § 41(b), the Commissioner cannot accept a delayed maintenance fee payment for the above-identified patent under 37 CFR 1.378(c).

Application No. 08/304,147
Patent No. 5,700,654

-2-

Should petitioner wish to pursue reinstatement of the above-identified patent on the basis of unavoidable delay, petitioner should file a petition under 35 U.S.C. § 41(c) and 37 CFR 1.378(b), which must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

By Fax: (703) 872-9306
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.


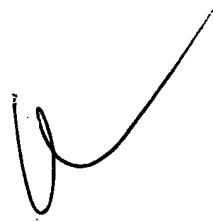

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Exhibit "P"

Lipoprotein Diagnostics, Inc.
1109 Tannery Creek Rd.
P.O. Box 16
Bodega, CA 94922
Fax: 954-697-0396
Phone: 707-876-9222
email: lipotech2004@yahoo.com



Date: May 25, 2005
To: Ken Kohn Ph.D.
Kohn & Associates
From: Eric Kuhrts
Re: Vanderbilt Patent # 5,700,654

Enclosed find copies of the correspondence with the patent office related to U.S. Patent # 5,700,654, which has gone abandoned due to late payment of the maintenance fee.

As you can see, I paid the patent office \$2,085.00 which they received September 13, 2004, and which included the 3 1/2 year maintenance fee as well as the surcharge. The patent office has dismissed the petition, but still has the \$2,085.00. Lipoprotein Technologies, Inc. paid the fee.

Vanderbilt was unaware that the maintenance fee had not been paid or was overdue until recently, and they are the actual assignee. I told Vanderbilt that we would cover the legal fees, but need an estimate of how much it may cost, less the actual fees that have already been paid to the patent office.

Let me know if you have any questions.

Best regards,


Eric Kuhrts

Exhibit "Q"

KOHN &

ASSOCIATES

P • L • L • C

Intellectual Property Law

June 16, 2005

KENNETH I. KOHN, Ph.D.
AMY E. RINALDO[†]
ANDREW M. PARIAL
[†] also admitted in Ohio

Of Counsel
WILLIAM H. HORTON
LINDA M. WATSON

Mr. Eric H. Kuhrts
Lipoprotein Diagnostics, Inc.
1109 Tannery Creek Rd.
P.O. Box 16
Bodega, CA 94922

Re: USPN 5,700,654; Issued: 12/23/97
For: METHOD AND COMPOSITION TO ASSESS
OXIDATIVE STRESS *IN VIVO* - Roberts, et al.
Our File No.: 3002.00005

Dear Eric:

We have received and reviewed in detail your letter dated May 25, 2005 and the copies of the correspondence with the USPTO regarding the payment of the maintenance fee. A petition for unavoidable delay must be filed in order to reinstate this patent. To do this, the following must be included in a statement along with the petition:

1. The steps taken to ensure timely payment of the maintenance fee.
2. The date and the manner in which Lipoprotein Diagnostics, Inc. became aware of the expiration of the patent.
3. The steps taken to file the petition promptly.

An adequate showing requires a statement by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement. The patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.

June 16, 2005

Please provide us with an explanation of the above three requirements so that we can file a statement along with the petition. If you should have any questions with regard to the above, please do not hesitate to contact us.

Very truly yours,

KOHN & ASSOCIATES, PLLC



Kenneth I. Kohn

KIK/lsk
enc.

Shibit "R"



Thursday, 22 September, 2005 9:03:16 AM

Message

From: ♀ Sheryl Fox
♀ "Elsner, Janis E" <janis.elsner@vanderbilt.edu>
Subject: Fwd: Patent revival
To: ♀ Laura Komjathy

Attachments: 📎 Attach0.html

Dear Sheryl and Ken:

I just talked with Eric Kuhrts who believes he has sent all the dates and documentation you requested about when he became aware of the lapse and steps he took to correct it, which we know that the PTO rejected. You should have all that documentation. He took no steps to make a timely payment of the fee back when it was due because he was not aware that it was due. So we have to go with his fact set. When we talked about it in June, you suggested that all Eric's facts would go into an affidavit and have also Vanderbilt's affirmation that we received no notice about the maintenance fee coming due and therefore, were unable to take action. We routinely rely on outside patent counsel to send us notices and reminders up until the drop dead date and this didn't occur because you guys sent the notice to the licensee instead, etc. etc.

If you need Eric to send you a \$2500 payment for the legal work in preparing the petition, please send him some kind of invoice right away and he is very willing to pay it. I do not wish the filing of an affidavit to be delayed any further or we may have zero chance of getting patent reinstatement. You may send me a draft affidavit via email to review and then if OK, send it via FEDEX so we can turn this around quick.

I forgot to confirm Eric's email address but am sending a copy to my last known email address for him. Eric - if you get this message please confirm. Sending drafts via email is the fastest way to go. Either that or Fax.

If we need to caucus again, let's do it early tomorrow afternoon (say between 12-2pm central time) or Friday morning sometime.

Thanks,

Janis

Janis Elsner
Associate Director
Office of Technology Transfer and Enterprise Development
Vanderbilt University
1207 17th Ave. S., Suite 105
Nashville, TN 37212

Phone: 615/343-2430

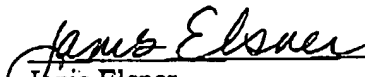
Fax: 615/343-4419

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VANDERBILT  UNIVERSITY

Office of Technology Transfer
and Enterprise Development

Vanderbilt University (Vanderbilt), owner of the '654 Patent, requested that its licensee, Lipoprotein Diagnostics, Inc., handle all patent maintenance and patent issues, and therefore, Kohn & Associates never sent notice of the upcoming Maintenance Fee to Vanderbilt. All communications from the U.S.P.T.O. came to Kohn & Associates, not Vanderbilt. Vanderbilt was unaware that the 3 1/2 year Maintenance Fee for the '654 Patent was unpaid because it had requested that the licensee, Oxford and then Lipoprotein, handle the matter. Had Vanderbilt known about the nonpayment of the Maintenance Fee, it would have taken timely action to pay the Maintenance Fee or revive the '654 Patent.


Janis Elsner
Associate Director
Office of Technology Transfer and
Enterprise Development

Sept 26, 2005
Date

Exhibit "S2"

Lipoprotein Diagnostics, Inc.**1109 Tannery Creek Rd.****P.O. Box 16****Bodega, CA 94922****Fax: 954-697-0396****Phone: 707-876-9222**

During February 2001, Lipoprotein Diagnostics was in the process of moving its company to a new location. Lipoprotein Diagnostics, and Mr. Eric Kuhrts thereof, did not inform Kohn & Associates of the new contact information. Any mail sent from Kohn & Associates did not go to the company at its new address because the Post Office did not forward the mail.

Mr. Kuhrts never received any emails from Kohn & Associates regarding the Maintenance Fee and status of the '654 Patent. Because Kohn & Associates was not on Mr. Kuhrts "contact list", any and all email sent from Kohn & Associates was not recognized and deleted by a spam guard program.



Eric Kuhrts